

Please amend the above-identified patent application as follows:

IN THE CLAIMS:

Cancel Claims 1 and 6 to 12 without prejudice.

REMARKS

Applicant has canceled claims 1 and 6 to 12 to advance the prosecution of this application. The Examiner is respectfully requested to reconsider the rejection of claims 13 and 14 in view of the remarks set forth herein.

Claims 13 and 14 stand rejected under 35 U.S.C. § 103 as unpatentable over Kralik, et al. in view of Isackson. In his rejection the Examiner asserts that the difference between Kralik, et al.'s maraca and the article of claims 13 and 14 "is that the claims recite using the maraca as an ornament for a key chain, and a bore is formed in the distal end of the handle of the maraca". The Examiner notes that Isackson suggests attaching his percussion instrument as an ornament for a key chain.

Applicant respectfully traverse the Examiner's rejection of Claims 13 and 14 as lacking sufficient factual basis to support a proper rejection of Claims 13 and 14.

Applicant's invention as specified in Claim 13 is directed to a novel ornament for a key chain having the following specified characteristics:

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1. a hollow shell with pellets,
2. an elongated handle joined to the shell,
3. the handle fabricated of flexible material,
4. an overall shape of a miniature maraca,
5. an overall length corresponding to the
approximate width of a person's hand,
6. a bore for receiving a key chain member.

The overall result of this combination is a unique, practical and attractive article. Applicant requests that an appointment be arranged wherein Applicant will have samples of the invention brought to the Patent Office for the Examiner's inspection.

Applicant recognizes that the Kralik, et al. patent, which is owned by Applicant, a co-inventor thereof, discloses a maraca having features 1 and 2 above. Applicant also acknowledges that the Isackson patent suggests providing a bore in one of diaphragms 14 to accommodate a lanyard or key chain. Neither reference suggests using a miniature maraca as a key ornament, but even if the references did make this suggestion, neither identifies the associated problem or the solution which is specified in Claim 13.

Applicant's objective was to make a practical ornament using the maraca

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of Figure 4 of Kralik, et al. First the size was reduced to be appropriate to fit a hand (8.5 cm, more or less, as specified at page 4, lines 8-10 of the Application). Once samples were fabricated, the inventor recognized a problem that does not arise with either the conventional maraca of Kralik or with the percussion shaker of Isackson, the fact that the smaller item, when subjected to ordinary use as a key ornament, has a tendency to break at the handle. (Specification, page 2, lines 3 to 10).

None of the references, whether or not applied to Claim 13, suggest that the breakage problem can be addressed by changing the handle to flexible material. The Zadek patent, applicable to a rattle, mentions the handle of the rattle can be rigid or flexible, but gives no guidance as to the alternative.

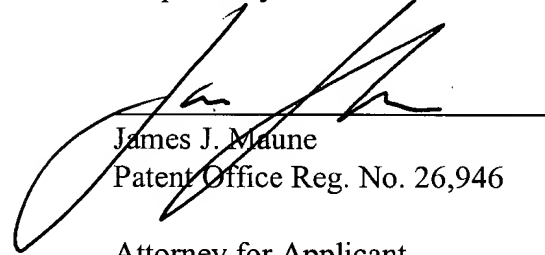
The Examiner is urged to telephone the undersigned attorney who will arrange to have samples brought to the Office for the Examiner's inspection.

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In view of the Amendment and Remarks herein, the Examiner is respectfully urged to reconsider Claims 13 and 14 and issue a Notice of Allowance in this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James J. Maune', is written over a horizontal line. The signature is stylized with a large loop on the left and a sharp upward stroke on the right.

James J. Maune
Patent Office Reg. No. 26,946

Attorney for Applicant
(212) 408-2566